



GOVERNOR'S COORDINATING OFFICES

Community Initiatives • Service & Volunteerism • Performance Improvement
Crime Prevention, Youth, & Victim Services • Small, Minority, & Women Business Affairs
Banneker-Douglass Museum • Volunteer Maryland • Deaf & Hard of Hearing

Date/Time: Thursday, March 25, 11am

Minutes

Prosecutor's Perspective - Adam Lippe from Baltimore County State's Attorney's Office

- Increasing thefts, increasingly easy with electronic means
- Defendants often struggle to pay restitution. Maryland has limits on what we can do through means like asset forfeiture.
- We look at restitution as a debt owed to the victim. This is an under enforced part of victims' rights
- How can we recover from the defendant?
 - Prosecutors need to ask for it
 - Needs to be direct result of the crime
 - Has to be what the victim suffered/direct costs
 - Victims must articulate what their losses are. Prosecutors should ask and present competent evidence.
 - Prospective costs are a little more challenging. Actual costs with documentation, i.e. receipts, bills, etc. are easier
- Presumed right to restitution.
 - Restitution hearing is held in the civil standard. Judge decides if its reasonable
 - Every victim can still file a civil suit regardless of the criminal prosecution
- Order restitution through probation



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- Not paying is a technical violation
 - Short sentence, small consequences for not paying, if sent back to jail, more unlikely to get money
- As a prosecutor, ask for equal monthly payment - tell victims if you don't receive a payment in 3 months, something is wrong. Contact me and I then follow up with Parole and probation. Can sometimes address the issue.
 - Many prosecutors don't do this
 - Success is where prosecutors stay in touch with victims and ask for regular hearings on restitution when in violation
 - Prosecutors need to keep judges informed
 - In perfect program, monthly account balance statements would be available with everybody and eliminate surprise of non payment
 - Only DPP has this information
- Restitution hearings
 - After the defendant is found guilty - I allow the defendant to plea and have sentencing and give time for the defendant to pay.
 - If there is a disagreement between defendant and state, then we request a restitution hearing
- For those under supervision, the Parole Commission can make restitution payment a condition of release.
 - The Parole Commission often doesn't see anything about restitution unless it comes from DPP.



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- Supervision can be extended just for restitution
- Ability to pay
 - Can be a challenge for big cases - always ask what can you pay? Judges are good about ordering a minimum amount based on ability to pay.
 - We need to trust defendants about ability to pay due limited ability to access and analyze individuals' financial and asset information
 - Use the civil system, index judgements. Cannot be discharged in bankruptcy
- What can help?
 - Victim/witness coordinators in State's Attorney's Offices
 - Explore a standardize restitution form

Division of Parole and Probation - Martha Danner with Walter Nolley and Lisa Nixon

- Monthly reports on restitution to agents. Each month, agents determine compliance
- Notify people with non payment and consider violations other consequences
- When do we notify the court?
 - Individuals are notified of non payments at 60 and 90 day intervals
 - We work with those who are unemployed
 - When the victim requests or if the individual is 4 months behind but no later than 90 days
 - We review to see if notification should be sent
 - Sometime judges want more frequent notification, sometimes no action on reports submitted
- Pre sentence investigation reports
- Intake process and payment plans



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- If order does not have a due date, we make a monthly payment plan that ends 90 days before expiration so DPP can submit a report and have a violation hearing if needed
 - DPP not prepared to send payment earlier to CCU
 - Current system is mainframe system that makes it hard to separate out money to send to CCU
 - Unlike DJS, DPP collects a number of other fees
- Moving forward
 - Looking at new collection system including other payment types
 - Visibility to multiple stakeholders
 - Increasing personnel and establishing restitution coordinator position
 - Vermont model
 - 15% surcharge added to all fines deposited to restitution fund
 - Unit can advance payments from fund to victims
- Question: Plans to change policy to make sure the court is notified *whenever* restitution is overdue?
 - Can get back on changing policy
 - In the policy, after 90 days arrearage we are to notify the court.
 - Currently we have about 30 percent of our clients who are employed at closure so most of our supervised clients would not be subject to an earnings withholding due to not being gainfully employed.
- Concerns with early referral to CCU and layering on fees